

107TH Congress }
2d Session }

SENATE

{ REPORT
107-153 }

SMALL BUSINESS PAPERWORK RELIEF ACT
OF 2001

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1271

TO AMEND CHAPTER 35 OF TITLE 44, UNITED STATES CODE, FOR
THE PURPOSE OF FACILITATING COMPLIANCE BY SMALL BUSI-
NESS CONCERNS WITH CERTAIN FEDERAL PAPERWORK RE-
QUIREMENTS, TO ESTABLISH A TASK FORCE TO EXAMINE IN-
FORMATION COLLECTION AND DISSEMINATION, AND FOR
OTHER PURPOSES



MAY 21, 2002.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

99-010

WASHINGTON : 2002

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SMALL BUSINESS PAPERWORK RELIEF ACT OF 2001

MAY 21, 2002.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 1271]

The Committee on Governmental Affairs, to which was referred the bill (S. 1271) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. PURPOSES AND SUMMARY

S. 1271, as amended, helps small businesses. The bill aids small businesses in understanding and complying with Federal information-collection requirements, mandates a study of how to streamline information-collection requirements for small businesses and how to strengthen the dissemination of information by the Federal Government, and directs that certain data be compiled about enforcement activities involving small entities. The legislation includes the following provisions to help small businesses:

- The Office of Management and Budget (OMB) will annually publish in the Federal Register and make available on the Internet a list of the compliance assistance resources available to small businesses.

- Each agency will establish a single point of contact within the agency to serve as liaison with small business concerns with respect to the collection of information and the control of paperwork.
- Each agency will make efforts to further reduce the information collection burden for very small business concerns with fewer than 25 employees.
- An interagency task force will be convened to study measures to streamline information collection requirements for small businesses and to strengthen dissemination of information by the Federal Government. Among other things, the task force will recommend a plan for an interactive government website to help small businesses understand which Federal information-collection requirements apply to its business and will examine the savings from electronic reporting of information.
- Each agency will report biennially on the number of enforcement actions in which civil penalties were assessed, the number of such actions against small entities, the number of such actions in which civil penalties were reduced or waived, and the amount of such reductions and waivers.

II. BACKGROUND AND DISCUSSION OF LEGISLATION

America's small businesses are a critical part of the nation's economy and a key driver of new job growth. Small businesses comprise 99% of all businesses, generate about 50% of the gross domestic product, and sustain about 53% of private industry's workforce.¹ However, small businesses face particular challenges in complying with government information-collection requirements, and the costs in time and money needed to understand and comply with these requirements can have a direct impact on the businesses' bottom line.

Many categories of government activity to protect or otherwise benefit the public depend on the collection of information—including tax collection, regulatory and compliance reporting, applications for benefits, agency program planning and evaluation, development of basic statistics, and scientific research. For example, environmental, health, and safety programs depend heavily on reporting to enable government to identify risks and head off potential danger, and a number of these programs rely on public disclosures of information, in lieu of more restrictive regulations, to help protect the public.

Recognizing the importance of such collections of information, it is crucial that those entities subject to the requirements be able to understand and comply with them easily. But the cost in time and money required to understand and comply with information-collection requirements can be very substantial, and, because of economies of scale, it may be relatively more expensive for small businesses than for big businesses to hire the technical and legal assistance to facilitate understanding and complying with Federal information collection requirements.² Indeed, the smallest businesses

¹ See regulatory Reform: Implementation of Selected Agencies' Civil Penalty Relief Policies for Small Entities, at page 6 (GAO-01-280, February 2001).

² Regulatory requirements generally, and information collection requirements in particular, may affect small businesses and other small entities more, in proportion to their size, than big entities. See, e.g., id.; Part V, "Factors Contributing to Disproportionate Small-Entity Costs," in Impacts of Federal Regulation, Paperwork, and Tax Requirements on Small Business, Report Prepared for the U.S. Small Business Administration, by Microeconomic Applications Inc. (September 10, 1988).

may lack research departments and legal teams, while their statutory and regulatory obligations (Federal, State, and local) may be substantial in proportion to the company's size. Accordingly, S. 1271 establishes several initiatives to assist small businesses in ascertaining, understanding, and complying with their Federal information-collection obligations. Implementation of these initiatives should reduce the costs and other impacts of those requirements on small businesses.

Federal agencies, frequently at the direction of Congress, have developed an array of different programs over the years to help small businesses in complying with reporting requirements. Federal agencies and others make available many books, pamphlets, manuals, and—of increasing importance—Internet web sites to help businesses understand how to fill in forms and fulfill other information-collection responsibilities. However, many businesses may be unaware of the available resources and how to gain access to them. The bill requires the Director of OMB, in consultation with the Small Business Administration, to compile a list of such compliance assistance resources available to small businesses and to publish it, as well as annual updates, in the Federal Register and on the Internet. A central inventory of such resources would make it easier for small businesses to take advantage of all the compliance assistance programs available to them.

Likewise, the bill requires the appointment of a single small business liaison within each agency. Under this provision, small businesses will know the single person within each agency to whom they can turn to find information and assistance. The bill also provides for the establishment of a task force of agency officials and others, whose mission will include studying and making recommendations regarding two strategies intended to help small businesses ascertain what information-collection requirements are applicable. First, the task force will recommend a plan for the development of an interactive website to allow each small business to identify which specific Federal requirements apply to their specific situation. Second, the task force will examine whether, and to what extent, it would be feasible and beneficial to small businesses for the Director of OMB to publish in the Federal Register and on the Internet an annual list of all Federal information collection requirements, organized by North American Industry Classification System (NAICS) code, by industrial sector description, or another manner by which small businesses can more easily identify which requirements apply to their particular businesses. The Small Business Administration (SBA) is already establishing on the Internet a one-stop compliance assistance portal for small businesses,³ and the task force may coordinate its activities with SBA to avoid duplication of effort and to achieve the greatest benefit. These provisions of the bill should increase the level of compliance with reporting requirements, while also making it simpler and less time-consuming for small businesses.

³ Under its "Business Compliance One-Stop" initiative, the SBA is developing an Internet portal (www.BusinessLaw.gov) to help small business find, understand, and comply with Federal, State, and local laws and regulation. See Office of Information and Regulatory Affairs, Office of Management and Budget, Managing Information Collection and Dissemination, Fiscal Year 2002, pages 40–41; SBA Budget Request and Performance Plan, FY 2003 Congressional Submission, at pages 13, 42–43.

The task force is also directed to study measures to help small businesses through integration and streamlining of information-collection processes and by implementing electronic paperwork submission. Specifically, the task force will examine the feasibility of requiring agencies to consolidate information-collection requirements without negatively impacting the effectiveness of underlying laws and regulations to enable a small business to submit required information to one place in each agency and in a single format, such as an electronic reporting system. The task force also will focus specifically on examining the savings that could be realized by implementing a system of electronic paperwork submissions. The task force would look at the potential savings of time and money both to the businesses and others who submit information and to the agencies that receive and use the information. As part of this inquiry, the task force should also consider ways to better identify and authenticate the filer.

The task force will also study ways to strengthen the dissemination of information by the Federal Government to facilitate greater public access to the information.

Finally, the bill includes a permanent requirement that each agency file biennial reports providing certain data about its enforcement and penalty actions, including data regarding such actions against small businesses. Requiring this information will facilitate congressional oversight.

III. LEGISLATIVE HISTORY

On July 15, 1999, in the 106th Congress, Senator Voinovich introduced S. 1378, a predecessor bill to S. 1271, for himself and Senator Lincoln, and a hearing was held on the bill. In the 107th Congress, S. 1271 was introduced on July 30, 2001, by Senator Voinovich, for himself and Senators Lincoln and Leahy, and was referred to the Governmental Affairs Committee. The bill now has 13 additional cosponsors: Senators Bond, Bunning, Carnahan, Carper, Cleland, Collins, Conrad, Dayton, Jeffords, Kerry, Lieberman, Miller, and Thompson.

The bill was considered by the Committee at its business meeting on November 14, 2001. At the meeting, Senator Voinovich offered an amendment in the nature of a substitute, which had been developed after discussions with Senator Lieberman and others. Changes made to the bill by the amendment in the nature of a substitute include:

- Requiring that the Director of OMB publish annually a list of compliance assistance resources available to small businesses.
- Striking a requirement that the Director of OMB publish annually a list of information-collection requirements applicable to small business concerns, organized by North American Industrial Classification System, and requiring instead that the task force examine the feasibility and helpfulness of such an undertaking.
- Adding that the task force's purposes include strengthening the dissemination of information.
- Adding three representatives of the small business community to the task force.
- Requiring that the task study several ways that Internet-based technology could enable small businesses to better under-

stand applicable requirements and to submit paperwork electronically.

- Adding the caveat that, in studying the feasibility of requiring consolidation of information-collection requirements, the task force will not study any measure that would negatively impact the effectiveness of underlying laws and regulations.

- Striking a provision requiring the task force to study whether information collection should be consolidated by enabling small businesses to submit all paperwork required by an agency “on the same date.”

The Committee adopted the amendment in the nature of a substitute by voice vote and ordered the bill, as amended, favorably reported by voice vote. Senators present were: Senators Akaka, Durbin, Cleland, Carper, Carnahan, Thompson, Voinovich, Cochran, Bunning, and Lieberman.

IV. SECTION-BY-SECTION DESCRIPTION

Section 1. Short title

Section 1 of the bill provides that the Act may be cited as the “Small Business Paperwork Relief Act of 2001.”

Section 2. Facilitation of compliance with Federal paperwork requirements

Publication of list of compliance-assistance resources. Subsection (a) of section 2 of the bill adds a new paragraph to the Paperwork Reduction Act (PRA), at 44 U.S.C. § 3504(c)(6). The new paragraph (6), read together with existing subsection (c), requires that, with respect to the collection of information and the control of paperwork, the Director of the Office of Management and Budget (OMB) will publish in the Federal Register and make available on the Internet a list of compliance assistance resources available to small businesses. The applicable definition of “collection of information” in the PRA, at 44 U.S.C. § 3502(3), includes an agency’s questions and recordkeeping requirements posted to, or imposed upon, 10 or more persons to obtain information or require its disclosure. The purpose of this subsection of the bill is to provide small businesses a resource to help them quickly and efficiently find the compliance assistance they need.

Point of contact. Subsection (b) of section 2 of the bill adds a new subsection to the PRA, at 44 U.S.C. § 3506(i), requiring that, with respect to the collection of information and the control of paperwork, each agency must establish one point of contact to act as liaison between the agency and small business concerns. The applicable definition of “agency,” as set forth in the PRA at 44 U.S.C. § 3502(1), includes generally any department, Government corporation, or other establishment in the executive branch, including independent regulatory agencies. The amendment also makes applicable the definition of “small business concern” in the Small Business Act, at 15 U.S.C. § 632. The purpose of this subsection of the bill is to establish the place in each agency that small businesses can contact when they need help with respect to information collection or the control of paperwork. This subsection applies to any agency with a head listed as a level I position on the Executive Schedule, as well as the FCC, the SEC, and the EPA.

Further efforts to reduce paperwork for very small enterprises. Subsection (c) of section 2 of the amendment adds a new paragraph to the PRA, at 44 U.S.C. § 3506(c)(4), requiring that, in addition to the requirements of the PRA regarding the reduction of information collection burdens for small business concerns generally, each agency must make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees and eliminate any unnecessary paperwork burdens.

Section 3. Establishment of task force on information collection and dissemination

Establishment of task force and statement of purposes. Section 3 of the bill adds a new section to the PRA, at 44 U.S.C. § 3520. Subsection (a) of new 44 U.S.C. § 3520 establishes a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information by the Federal Government.

Selection of task force members. Subsection (b) of new 44 U.S.C. § 3520 provides that the Director of OMB will appoint the representatives from each of a number of departments and agencies named in the bill and from two additional agencies to be named by the Director. The Director will appoint a representative of the Director, who will convene and chair the task force, and will appoint no fewer than three representatives of the small business community to serve on the task force.

Task force assignments. Subsection (c) of new 44 U.S.C. § 3520 directs the task force to do the following:

- Recommend a plan for the development of an interactive Internet-based system to allow each small business to better understand which Federal information-collection requirements (and, where possible, which other Federal regulatory requirements) apply.
- Identify ways to integrate information collection and examine whether, and to what extent, it would be feasible to require agencies to consolidate requirements regarding collections of information within and across agencies (without negatively impacting the effectiveness of underlying laws and regulations) in order to enable each small business concern to submit required information—(A) to one point of contact in the agency, and (B) in a single format, such as an electronic reporting system.
- Examine whether, and to what extent, it would be feasible and helpful to small businesses for the Director to publish a list of all collections of information applicable to small business concerns organized by North American Industry Classification System (NAICS) code, by industrial sector description, or in another manner by which small business concerns can more easily identify applicable requirements.
- Examine the savings for implementing a system of electronic paperwork submission.

The task force will also study ways to strengthen the dissemination of information by the Federal Government to facilitate greater public access to the information.

Task force reports. Subsection (d) of new 44 U.S.C. § 3520 requires the task force to submit a report of its findings not later than one year after enactment of the bill. The task force shall sub-

mit its report to the Director of OMB and to certain committees of Congress identified in the bill.

Section 4. Regulatory enforcement reports

Section 4 of the bill revises section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. §601 note) to require that each agency shall submit biennial reports on each of the following:

(A) The number of enforcement actions in which a civil penalty is assessed.

(B) The number of enforcement actions in which a civil penalty is assessed against a small entity.

(C) The number of enforcement actions described under items (A) and (B), above, in which the civil penalty is reduced or waived.

(D) The total monetary amount of the reductions or waivers referred to under item (C), above.

Each report shall include definitions of the terms “enforcement actions,” “reduction or waiver,” and “small entity” as used in the report. Each agency shall submit a report not later than one year after the date of enactment of the bill and not later than every two years thereafter to certain committees of Congress identified in the bill.

V. REGULATORY IMPACT STATEMENT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the “regulatory impact which would be incurred in carrying out this bill.” S. 1271 would have no direct regulatory impact, because it imposes no requirements on entities and individuals outside of the Federal Government.

However, implementation of S. 1271 is likely to have an indirect regulatory impact. Insofar as the implementation of the bill successfully fulfills the objective of assisting small businesses in ascertaining, understanding, and complying with Federal information-collection requirements, the cost and other impact of those requirements on small businesses should be reduced. Likewise, insofar as the implementation of the bill successfully causes Federal information-collection requirements to be integrated and consolidated for small businesses, the time that small businesses spend on fulfilling these requirements should be reduced, thereby decreasing the costs and other impacts of those requirements on small businesses.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and with section 403 of the Congressional Budget Act of 1974, 2 U.S.C. §653, the Committee sets forth the following cost estimate with respect to S. 1202 submitted to the Committee by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 2001.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for S. 1271, the Small Business Paperwork Relief Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

S. 1271—Small Business Paperwork Relief Act of 2001

S. 1271 would seek to provide relief from federal administrative requirements to small businesses by: (1) directing the Office of Management and Budget to publish an annual list of paperwork requirements, (2) requiring that agencies provide a single point of contact for small business, and (3) establishing a multi-agency task force, including members of the small business community, to study the feasibility of streamlining requirements for collecting and reporting information to the federal government.

Under S. 1271, agencies would incur additional costs to publish lists of paperwork requirements, to participate in the multi-agency task force, and to provide reports, but CBO expects that such costs would not be significant. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. S. 1271 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1202 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

§ 3504. Authority and functions of Director

* * * * *

(c) With respect to the collection of information and the control of paperwork, the Director shall—

* * * * *

(4) * * * **[; and]** ;

(5) * * * **[.]** ;

(6) *publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2001.*

* * * * *

§ 3506. Federal agency responsibilities

(c) With respect to the collection of information and the control of paperwork, each agency shall—

* * * * *

(2) * * *

* * * * *

(B) * * * **[; and]** ;

* * * * *

(3) * * *

* * * * *

(J) * * * **[.]** ;

(4) *in addition to the requirements of this chapter regarding the reduction of information collection burdens for small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), make efforts to—*

(A) *further reduce the information collection burden for small business concerns with fewer than 25 employees; and*

(B) *eliminate any unnecessary paperwork burdens.*

* * * * *

(i)(1) *In addition to the requirements described in subsection (c), each agency described under paragraph (2) shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)). Each such point of contact shall be established not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2001.*

(2) *An agency described under this paragraph is—*

(A) any agency with a head that is listed at a level I position on the Executive Schedule under section 5312 of title 5; and

(B) the Federal Communications Commission, the Securities and Exchange Commission, and the Environmental Protection Agency.

* * * * *

SEC. 3520. ESTABLISHMENT OF TASK FORCE ON INFORMATION COLLECTION AND DISSEMINATION.

(a) There is established a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information (in this section referred to as the “task force”).

(b) The members of the task force shall be appointed by the Director, and include—

(1) not less than 2 representatives of the Department of Labor, including 1 representative of the Bureau of Labor Statistics and 1 representative of the Occupational Safety and Health Administration;

(2) not less than 1 representative of the Environmental Protection Agency;

(3) not less than 1 representative of the Department of Transportation;

(4) not less than 1 representative of the Office of Advocacy of the Small Business Administration;

(5) not less than 1 representative of the Internal Revenue Service;

(6) not less than 2 representatives of the Department of Health and Human Services, including 1 representative of the Health Care Financing Administration;

(7) not less than 1 representative of the Department of Agriculture;

(8) not less than 1 representative of the Department of Interior;

(9) not less than 1 representative of the General Services Administration;

(10) not less than 1 representative of each of 2 agencies not represented by representatives described under paragraphs (1) through (9) and (11);

(11) 1 representative of the Director, who shall convene and chair the task force; and

(12) not less than 3 representatives of the small business community.

(c) The task force shall—

(1) recommend a plan for the development of an interactive Government application, available through the Internet, to allow each small business to better understand which Federal requirements regarding collection of information (and, when possible, which other Federal regulatory requirements) apply to that particular business;

(2) identify ways to integrate the collection of information across Federal agencies and programs and examine the feasibility of requiring each agency to consolidate requirements regarding collections of information with respect to small busi-

ness concerns, within and across agencies without negatively impacting the effectiveness of underlying laws and regulations regarding such collections of information, in order that each small business concern may submit all information required by the agency—

- (A) to 1 point of contact in the agency; and
- (B) in a single format, such as a single electronic reporting system, with respect to the agency;
- (3) examine the feasibility and helpfulness to small businesses of the Director publishing a list of the collections of information applicable to small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), organized—
 - (A) by North American Industrial Classification System code;
 - (B) industrial/sector description; or
 - (C) in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply; and
- (4) examine the savings, including cost savings, for implementing a system of electronic paperwork submissions.
- (d) Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2001, the task force shall submit a report of its findings under subsection (c) to—
 - (1) the Director; and
 - (2) the chairpersons and ranking minority members of—
 - (A) the Committee on Governmental Affairs and the Committee on Small Business of the Senate; and
 - (B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives.
- (e) In this section, the term “small business concern” has the meaning given under section 3 of the Small Business Act (15 U.S.C. 632).

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996

Public Law 104–121 (5 U.S.C. § 601 note)

SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

* * * * *

[(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section (Mar. 29, 1996) on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.]

(c) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2001, and not later than every 2 years thereafter, each agency shall submit a report to the Director of the Office of Management and Budget and the chairpersons and ranking minority members of

the Committee on Governmental Affairs and the Committee on Small Business of the Senate, and the Committee on the Judiciary and the Committee on Small Business of the House of Representatives, that includes information with respect to the applicable 1-year period or 2-year period covered by the report on each of the following:

(A) The number of enforcement actions in which a civil penalty is assessed.

(B) The number of enforcement actions in which a civil penalty is assessed against a small entity.

(C) The number of enforcement actions described under subparagraphs (A) and (B) in which the civil penalty is reduced or waived.

(D) The total monetary amount of the reductions or waivers referred to under subparagraph (C).

(2) DEFINITIONS IN REPORTS.—Each report under paragraph (1) shall include definitions of the terms “enforcement actions”, “reduction or waiver”, and “small entity” as used in the report.

